BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) Nos.14980 to 14985 of 2024
and
W.M.P.(MD) Nos.13123, 13124, 13131, 13132, 13127, 13130, 13121, 1312213126, 13128, 13133 and 13134 of 2024

In W.P.(MD) No.14980 of 2024:

Tvl.Rahuman Traders
rep by its Proprietor
Mohamed Ismail ... Petitioner

/vs./

The State Tax Officer (CIW)-1,
Office of the Joint Commissioner (IW),
Tirunelveli. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the Respondent vide his order in GSTIN. 33ADAPM4835G1ZT/2017-2018 dated 05-12-2023 and quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the Respondent to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

By this common order, all the six writ petitions are being disposed of.

2.In these writ petitions, the petitioner has challenged the respective impugned orders all dated 05.12.2023. Each of the impugned orders have preceded the notices in DRC 01A and DRC 01 as also the personal hearing notices. To none of the notices, the petitioner has replied.

3.According to the petitioner, the notices as also the impugned orders were transferred to the petitioner in the GST common portal, which went unnoticed. It is submitted that the petitioner is a small time business dealer and is not fully conversant with the technology involved in the notices that are communicated on the GST portal and realises the inputs from the Chartered Accountant/Tax Practitioner of the petitioner and that the Chartered Accountant/Tax Practitioner failed to intimate the same to the petitioner.

4.The learned Government Advocate for the respondent, on the other hand, would submit that these writ petitions are devoid of merits and are liable to be dismissed in the light of the decision of the Hon'ble Supreme Court in ***Assistant Commissioner (CT) LTU, Kakinada and others Vs. Glaxo Smith Kline Consumer Health Care Limited*** reported in ***2020 SCC Online SC 440.*** He would further submit that even the appellate remedy at this distant point of time is also time barred in terms of the decision of the Hon'ble Supreme Court in ***Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur*** reported in ***2008 (221) E.L.T. 163 (S.C).***

5.Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, I am of the view that the petitioner may have a case to explain and therefore should not be unjustly taxed, as the philosophy of the tax under the GST Act is only to collect just tax.

6.Considering the same, the impugned orders are set aside and the cases are remitted back to the respondent to pass a fresh order on merits and in accordance with law subject to the petitioner depositing 25% of the disputed tax from its Electronic Cash Register.

7.It is informed that the petitioner has already deposited Rs.3,50,000/-. If that be so, the aforesaid amount shall be deducted while depositing 25% of the disputed tax. This amount shall be paid within a period of 30 days from the date of receipt of a copy of this order.

8.The impugned orders, which stand quashed, shall be treated as addendum to the respective notices issued in GST DRC 01A and GST DRC 01. The petitioner shall file a consolidated reply for each of the assessment years separately within the aforesaid period. The respondent shall pass fresh orders on merits and in accordance with law within a period of 3 months thereafter.

9.These Writ Petitions stand allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No **08.07.2024**
Internet : Yes / No
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To

The State Tax Officer (CIW)-1,
Office of the Joint Commissioner (IW),
Tirunelveli.

C.SARAVANAN, J.

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W.P.(MD) Nos.14980 to 14985 of 2024

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